

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

PAUL RUSESABAGINA, TACIANA
MUKANGAMIJE, ANAISE
UMUBYEYI KANIMBA, AIMEE-LYS
RUSESABAGINA, AIME-DIANE
RUSESABAGINA, TRESOR
RUSESABAGINA, ROGER
RUSESABAGINA, CARINE IZERE
KANIMBA,
Plaintiffs

SA-20-CV-01422-XR

-VS-

**GAINJET AVIATION S.A.,
CONSTANTIN NIYOMWUNGERE,
*Defendants***

ORDER

On this date, the Court considered the status of the above-styled and numbered cause. The Court finds that this cause of action was commenced by the filing of Plaintiffs' Complaint on December 14, 2020. Docket no. 1. No proof of service of process has been filed, and Defendants have not appeared.

Rule 4(m) imposes a 90-day time limit for service. FED. R. CIV. P. 4(m). However, it expressly “does not apply to service in a foreign country under Rule 4(f) [Serving an Individual in a Foreign Country], [or] 4(h)(2) [Serving a Corporation, Partnership, or Association at a place not within any judicial district of the United States].” *Id.* Defendants in this case are an individual Rwandan citizen and a company organized and existing under the laws of Greece that is headquartered in Greece. Thus, the time limit of Rule 4(m) does not apply.

But this does not mean that the time to serve process in a foreign country is unlimited. *Walker v. Transfrontera CV de SA*, 634 F. App'x 422, 430 (5th Cir. 2015). District courts need to be able to control their dockets, and “[g]ood faith and reasonable dispatch are the proper

yardsticks” for timely service. *Lozano v. Bosdet*, 693 F.3d 485, 489 (5th Cir. 2012). Therefore, a plaintiff’s complaint may be dismissed upon a failure to exercise diligence in attempting to effectuate service on a foreign defendant. *Harris v. Orange S.A.*, 636 F. App’x 476, 485 (11th Cir. 2015); *Jensen v. Rollinger*, No. 5:13-1095 (RCL), 2015 WL 13796692, at *1 (W.D. Tex. Dec. 11, 2015) (“district courts need to be able to control their dockets” and have within their discretion the ability to dismiss without prejudice those defendants for whom plaintiff has not demonstrated reasonable diligence in attempting service).

Plaintiffs are therefore ORDERED to file an Advisory to the Court detailing all attempts at service on Defendants thus far, no later than **May 14, 2021**.

It is SO ORDERED.

SIGNED this 30th day of April, 2021



Xavier Rodriguez
United States District Judge